IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE G. BIKSHAPATHY**

**and**
**THE HON'BLE MR JUSTICE P.S.NARAYANA**

**WRIT PETITION NO : 6177 of 2005**

Between:

M/s. Shalimar Agrotech Limited, Kishanbagh Road, Bahadurpura, Hyderabad-500 264, Rep. by its Managing Director, Mr. Mahesh Agarwal.

**..... PETITIONER**

AND

1 The Commercial Tax Officer, Lard Bazar Circle, Hyderabad.
2 The Deputy Commissioner (CT), Charminar Division, Hyderabad.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue appropriate writ or order or direction, more particularly in the nature of writ of Mandamus, declaring the action of the Sales Tax Appellate Tribunal in directing deposit of further amount of Rs.80 lakhs as a condition precedent for grant of stay, as onerous, unreasonable and hence unsustainable, and accordingly set-aside the same and direct the respondents to forbear from collecting the balance disputed tax in pursuance of B3 demand notice dt. 16-3-2004 issued by the Respondent No.2 in proceedings No. 2122/2000-01/CST, until disposal of the appeal, viz., T.A.No. 354 of 2004 by Sales Tax Appellate Tribunal and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

**Counsel for the Petitioner: MR.S.CHAKRAPANI**

**Counsel for the Respondents: GP FOR COMMERCIAL TAX**

**The Court made the following:**

**ORDER:** (per GB,J)

The writ petition is filed challenging the interim order dated 22.02.2005 passed by the Sales Tax Appellate Tribunal, Hyderabad (for short 'the Tribunal') in T.M.P.No.140 of 2004 in T.A.No.354 of 2004.

2. The Tribunal granted stay of collection of the disputed tax on condition of the petitioner depositing a sum of Rs.80,00,000/- by an order dated 22.02.2005, which is impugned in this writ petition. The principal contention raised by the learned counsel for the petitioner is that the Deputy Commissioner for Commercial Tax has rejected the consignment sales turnover to a tune of Rs.17.14 crore without there being any basis for such rejection. It is stated that the petitioner has already paid a sum of Rs.80,00,000/- in pursuance of the understanding arrived at between the oil dealers and the Government. In the circumstances, he submits that the impugned order demanding the petitioner to pay a further sum of Rs.80,00,000/- is illegal and arbitrary. Therefore, he seeks appropriate direction in this regard.

3. The learned Government Pleader for Commercial Tax submits that though the total liability is Rs.4.40 crore, the petitioner paid only Rs.80,00,000/- and hence the order of the Tribunal ordering the petitioner to pay a further sum of Rs.80,00,000/- is sustainable.

However, the penalty has been stayed by the Tribunal.

4. Having heard the learned counsel for the parties, we find that imposing a condition on the petitioner to deposit a sum of Rs.80,00,000/- for grant of stay appears to be on the higher side taking into consideration the contention with reference to the rejection of the consignment of sales turnover to a tune of Rs.17.14 crore. In the circumstances, we are satisfied that the Tribunal ought to have fixed a reasonable amount for granting stay pending disposal of the appeal.

5. Accordingly, we direct the petitioner to deposit a sum of Rs.25,00,000/- (Rupees twenty five lakh only) within a period of four weeks from the date of receipt of this order. It is made clear that stay shall continue till the disposal of the appeal by the Tribunal.

6. The writ petition is disposed of accordingly. No costs.

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G.BIKSHAPATHY,J

25th March, 2005

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P.S.NARAYANA,J

VGB

To

1 The Commercial Tax Officer, Lard Bazar Circle, Hyderabad.
2 The Deputy Commissioner (CT), Charminar Division, Hyderabad.

3 2CCs to the Government Pleader for Commercial Tax, High Court

Buildings, Hyderabad (OUT)

4 2CD copies.